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TAGS: [PREL](#) [KPKO](#) [UNGA](#) [UNSC](#)
SUBJECT: CRIMINAL ACCOUNTABILITY OF UN OFFICIALS AND
EXPERTS ON MISSION

REF: A. [A] USUN 344
[1](#)B. [B] 07 STATE 157737

[1](#)1. Action request: USUN is requested to send a diplomatic note to the Secretary-General, in the appropriate format, using the text in paragraph 3, in response to the Secretary-General's note of December 31, 2007.

[1](#)2. Background: General Assembly resolution 62/63 of December 6, 2007 called on Member States to review their own domestic criminal laws and to cooperate with the UN and other Member States, including by sharing information on steps taken to investigate and prosecute crimes by their own citizens serving with UN operations and programs. The resolution asked the Secretary-General to report to the next session of the GA on investigations and prosecutions. The Secretary-General sent a note to all UN Missions on December 31, 2007 requesting information on this issue.

[1](#)3. The text that follows is keyed to operative paragraphs in GA resolution 62/63. Begin text:

Regarding operative paragraph 3:

The United States has a broad array of statutes that can be used to prosecute U.S. nationals who commit crimes while working for the United Nations or when acting as an expert on mission, even when those crimes may be committed outside of the United States. For certain conduct, the United States has extraterritorial jurisdiction over U.S. citizens. Examples include a citizen who goes abroad and sexually abuses a child or engages a child for prostitution. Thus any U.S. citizen working for the UN who pays a child for an act of prostitution or has sex with a child too young to consent, or with a child of sufficient age difference under federal law, can be prosecuted in the United States for such offenses.

The United States also has jurisdiction generally to prosecute any federal crime where even a minor part of the crime was committed in the United States, even when the bulk of the conduct was committed abroad. For example, a UN official or expert abroad who engaged in fraudulent activities will be subject to prosecution in the United States even if all he does is make a phone call to the U.S. in furtherance of his activities, or wire money to the United States if it is part of the criminal scheme. Similarly, regarding trafficking in persons, a person who affects commerce between the United States and a foreign state by engaging in trafficking in persons as defined by U.S. law can be prosecuted in the United States. This type of jurisdiction is particularly broad where a conspiracy of two or more people is involved, because an act by one conspirator in the United States can bring the entire conspiracy within U.S. jurisdiction.

Also, under the Travel Act, any person who travels or uses a facility in foreign commerce (meaning between the U.S. and a foreign country) for the purpose of distributing the proceeds of unlawful activity or committing a crime of violence in furtherance of unlawful activity, or otherwise carrying on an

unlawful activity can be prosecuted in the United States. For the purposes of this statute, &unlawful activity⁸ includes offenses related to gambling, narcotics, prostitution, extortion, bribery, arson or other racketeering activity.

The United States also has jurisdiction over certain corruption related offenses even when most of the conduct takes place abroad. Bribery of a foreign official by a U.S. citizen to gain contracts is a crime prosecutable in the U.S. courts, even if the bribery occurs outside the United States.

Regarding operative paragraph 4:

The United States has numerous mechanisms for providing information and evidence to foreign partners for the investigation and prosecution of offenses committed by United Nations officials or experts while on mission. First, the courts of the United States, as a matter of discretion, may provide assistance to foreign states, including compelled testimony and document production, as well as other information in response to letters rogatory. Second, the United States has over 50 bilateral mutual legal assistance treaties that cover a wide array of serious crimes. Third, the United States is a party to numerous multilateral conventions that provide a legal basis for judicial assistance that may be relevant to the types of crimes that might be committed by UN officials or experts. For example, the United States is a party to both the UN Convention against Corruption and the UN Convention against Transnational Organized Crime and two of its protocols, the Migrant Smuggling and Trafficking in Persons protocols. The United States is also a party to the Inter-American Convention on Mutual Legal Assistance, the Inter-American Convention against Corruption, and the Council of Europe Convention on Cybercrime. All of these multilateral conventions have legal assistance provisions that require cooperation in crimes covered by those conventions. Thus, a UN official who embezzles money, takes bribes, smuggles migrants, traffics in persons, commits a computer or child pornography crime, or is involved in any fraud involving 3 or more persons, is subject to having evidence gathered by the United States and provided to foreign governments for prosecution, assuming the foreign government is a party to the relevant multilateral treaty.

The United States also has over 110 bilateral extradition treaties pursuant to which the United States can extradite offenders, including U.S. citizens, or request extradition. The multilateral treaties mentioned above have the effect of expanding the list of extraditable offenses, to include all of the corruption and organized crime offenses that UN officials or experts might commit, if the requesting state is also a party to the relevant convention and has a bilateral extradition treaty with the United States. End text.

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